

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7404

BILL NUMBER: HB 1662

NOTE PREPARED: Apr 21, 2005

BILL AMENDED: Mar 31, 2005

SUBJECT: Medicaid Health Facility Quality Assessment.

FIRST AUTHOR: Rep. Frizzell

FIRST SPONSOR: Sen. Miller

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that if a health facility fails to pay the quality assessment to the Department of State Revenue or a nursing facility fails to pay the quality assessment to the Office of Medicaid Policy and Planning (Office), the State Department of Health must notify the facility and revoke the facility's license. The bill requires a health facility to pay interest on late payments. The bill also requires the Office to report certain information to the Select Joint Commission on Medicaid Oversight.

Effective Date: July 1, 2003 (retroactive).

Explanation of State Expenditures: State nursing home expenditures will be increased for two years retroactively upon the approval of the quality assessment fee under the existing statute. Of the total assessment, 80% (or \$177.2 M) will be used for retroactive nursing home reimbursement. The Office of Medicaid Policy and Planning (OMPP) is required to increase the payments to nursing homes prior to implementing the quality assessment fee. The bill extends the authorization for the quality assessment fee collection and the related increased expenditures from August 2005 to August 2006.

The bill also requires the Office to report specified information at each meeting of the Select Joint Commission on Medicaid Oversight. Before the assessment is approved, the Office is to submit a progress report and a summary of discussions with the federal Centers for Medicare and Medicaid Services (CMS). Once the quality assessment is approved and implemented, the Office is to report on the collection of the assessment, a summary of any outstanding amounts due from facilities, and any other relevant information. This reporting requirement is administrative in nature and should be accomplished within the current level of resources available to the Office.

The Department of State Revenue (DOR) could potentially incur additional expenses to implement this program. However, since the program is temporary and the number of facilities that could potentially be affected is small, the Department's current level of resources should be sufficient to implement the program.

Explanation of State Revenues: This bill adds license revocation by the State Department of Health as a penalty for failure of a nursing facility to pay a quality assessment to OMPP, or a health facility to pay a quality assessment to the Department of State Revenue. This potential action should increase the likelihood of compliance with the quality assessment provisions of P.L. 78-2004. The bill also requires OMPP and the Department of Revenue to establish a method for facilities to pay the quality assessment under an installment payment plan.

P.L. 78-2004, a noncode provision providing for a nursing facility quality assessment and which expires August 1, 2005, is estimated to generate \$221.5 M in total assessments over a two-year period; 80% (or \$177.2 M) to be used for additional retroactive expenditures for nursing facility reimbursement, and 20% (or \$44.3 M) to be available to the state to match federal Medicaid funds for purposes determined by OMPP. The implementation and receipt of the revenue is dependent upon the date of approval by the Centers for Medicare and Medicaid Services (CMS). This bill extends the effective date of the Quality Assessment implementation and enforcement provisions to August 1, 2006. There is no definitive expiration date with regard to the authorization of the State Medicaid Plan amendment that implements the assessment.

Background Information on the Nursing Facility Quality Assessment: OMPP reports the quality assessment is estimated to generate \$110.7 M in total assessments annually based on estimates prepared for FY 2003. The current retroactive assessment proposal is estimated to generate \$221.5 M over the initial two-year period, although it is not yet approved by CMS. The Quality Assessment is structured as shown below:

Assessment Group	Number of Providers	Medicaid Utilization	Medicaid Days	Private Pay/ Other Days
\$10.00 per non-Medicare day if total census days are less than 70,000 days	423	67.9%	8,188,666	2,567,109
\$2.50 per non-Medicare day if total census days are equal to or greater than 70,000 days or the facility is government-owned	28	67.1%	1,011,524	265,532
\$0 per non-Medicare day if provider is a CCRC*	40	36.2%	573,498	712,554
\$0 per non-Medicare day if provider is hospital-based	34	2.9%	15,218	71,933
\$0 per non-Medicare day if provider is state-owned (Indiana Veterans' Home)	1	0.0%	0	100,419
* Continuing care retirement community				

Current statute requires OMPP to submit to CMS a State Plan amendment and requests for waivers necessary to implement a nursing facility quality assessment. A state is allowed to assess a health care-related tax, so long as the assessment is broad-based and uniformly imposed throughout a jurisdiction or provider group. The

statute specifies that the quality assessment may not be passed through to a facility's residents. The statute further specifies that the money collected from the quality assessment may be used only to pay the state's share of Medicaid program costs.

In the current model proposed to CMS, the amount of the fee is based on a nursing facility's total annual patient days. Quality assessments of \$10 per non-Medicare patient day are to be collected from nursing facilities with total annual patient days of less than 70,000 days. Facilities with annual patient days equal to or greater than 70,000 days will be assessed a quality assessment of \$2.50 per non-Medicare day. Local government-owned nursing facilities will be assessed \$2.50 per non-Medicare patient day as well. Nursing facilities that are continuing care retirement communities, hospital-based, or owned by the state are exempt from the quality assessment fee.

By current statute, 80% of the fee revenue is to be used for nursing facility reimbursement, targeting specified uses. The expenditure of the remaining 20% may be determined by OMPP but must be used for Medicaid. The quality assessment may only be collected if federal financial participation is available to match enhanced reimbursement for nursing facilities.

The total quality assessment is estimated to generate \$221.5 M for the first two years it is to be effective: 80% of the quality assessment, or \$177.2 M, will be used for additional expenditures for nursing facility reimbursement; \$44.3 M is the estimated amount that will be available to the state to match federal Medicaid funds that may otherwise be subject to unspecified reductions. The bill expands the time that the quality assessment fee may be collected from the initial two years, expiring in August 2006 instead of August 2005. An estimate of the collections and expenditures for FY 2006 and FY 2007 has not been prepared although OMPP reports that the estimates for the first two years should be regarded as maximum amounts that may be collected since nursing home patient days are projected to decline slightly over the next two years.

OMPP has submitted the State Plan amendments and all associated applications to implement the quality assessment. However, CMS has not yet approved the application. If CMS approves the program during FY 2005, nursing homes that do not accept Medicaid patients and would recover nothing in the way of increased Medicaid reimbursement would be expected to pay the assessment fee within the defined parameter of 120 days or risk losing their licensure for two or potentially for three years, depending upon the timing of the program implementation.

Explanation of Local Expenditures: See *Explanation of State Revenues*, above, as it relates to municipally owned or county-owned nursing facilities or health facilities.

Explanation of Local Revenues:

State Agencies Affected: OMPP, Department of State Revenue, State Department of Health.

Local Agencies Affected: Municipally owned or county-owned nursing facilities or health facilities.

Information Sources:

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